

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent California Independent Business Political Action Committee (“CIB-PAC”) is a state general purpose committee, which supports Republican legislative candidates, causes, and committees. In 1996, Respondent CIB-PAC received contributions exclusively from three businessmen and a business located in Southern California - Edward G. Atsinger III of Camarillo, Richard Riddle of Los Angeles, Roland Hinz of Valencia, and Fieldstead & Co. of Irvine. At all times relevant to this matter, Respondent Charles H. Bell, Jr., a political law attorney, was Respondent CIB-PAC’s paid treasurer.

After March 4, 1996, and prior to the March 26, 1996 state primary election, Respondents paid for and sent eight campaign mailers which opposed the re-election of Republican incumbent Brian Setencich to the 30<sup>th</sup> Assembly District seat. Robert Prenter ran against Brian Setencich in the primary election, defeated him in that election, and went on to win the Assembly seat in the November general election. The eight campaign mailers did not identify Respondent CIB-PAC as the sender, but rather, contained sender identification for Robert Prenter’s campaign committee and a group known as the “Citizens of the Valley.”

For the purposes of this Stipulation, Respondents’ violations of the Political Reform Act (the “Act”)<sup>1</sup> are stated as follows:

**COUNT 1:** Between March 4, 1996 and March 26, 1996, Respondents California Independent Business Political Action Committee and Charles H. Bell, Jr. sent a mass mailing, as defined in section 82041.5 of the Government Code, entitled “***Deal***” that did not display the true name, street address, and city of the committee sending the mass mailing, in violation of section 84305, subdivision (a) of the Government Code.

**COUNT 2:** Between March 4, 1996 and March 26, 1996, Respondents California Independent Business Political Action Committee and Charles H. Bell, Jr. sent a mass mailing, as defined in section 82041.5 of the Government Code, entitled “***And Willie Brown Just Laughed***” that did not display the true name, street address, and city of the committee sending the mass mailing, in violation of section 84305, subdivision (a) of the Government Code.

**COUNT 3:** Between March 4, 1996 and March 26, 1996, Respondents California Independent Business Political Action Committee and Charles H. Bell, Jr. sent a mass mailing, as defined in section 82041.5 of the Government

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

Code, entitled “***Before He Stepped Down***” that did not display the true name, street address, and city of the committee sending the mass mailing, in violation of section 84305, subdivision (a) of the Government Code.

COUNT 4: Between March 4, 1996 and March 26, 1996, Respondents California Independent Business Political Action Committee and Charles H. Bell, Jr. sent a mass mailing, as defined in section 82041.5 of the Government Code, entitled “***They Wanted Justice***” that did not display the true name, street address, and city of the committee sending the mass mailing, in violation of section 84305, subdivision (a) of the Government Code.

COUNT 5: Between March 4, 1996 and March 26, 1996, Respondents California Independent Business Political Action Committee and Charles H. Bell, Jr. sent a mass mailing, as defined in section 82041.5 of the Government Code, entitled “***After He Carjacked Her Car***” that did not display the true name, street address, and city of the committee sending the mass mailing, in violation of section 84305, subdivision (a) of the Government Code.

COUNT 6: Between March 4, 1996 and March 26, 1996, Respondents California Independent Business Political Action Committee and Charles H. Bell, Jr. sent a mass mailing, as defined in section 82041.5 of the Government Code, entitled “***An Act of Betrayal***” that did not display the true name, street address, and city of the committee sending the mass mailing, in violation of section 84305, subdivision (a) of the Government Code.

COUNT 7: Between March 4, 1996 and March 26, 1996, Respondents California Independent Business Political Action Committee and Charles H. Bell, Jr. sent a mass mailing, as defined in section 82041.5 of the Government Code, entitled “***Just Last Week***” that did not display the true name, street address, and city of the committee sending the mass mailing, in violation of section 84305, subdivision (a) of the Government Code.

COUNT 8: Between March 4, 1996 and March 26, 1996, Respondents California Independent Business Political Action Committee and Charles H. Bell, Jr. sent a mass mailing, as defined in section 82041.5 of the Government Code, entitled “***We Proudly Support***” that did not display the true name, street address, and city of the committee sending the mass mailing, in violation of section 84305, subdivision (a) of the Government Code.

## SUMMARY OF THE LAW

Section 84305, subdivision (a) requires candidates and committees to properly identify themselves when sending a mass mailing. The subdivision specifically requires that:

“...no candidate or committee shall send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing, and on at least one of the inserts included within each piece of mail in the mass mailing in no less than 6-point type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be used in lieu of the street address, if the organization’s address is a matter of public record with the Secretary of State.”

Section 82041.5 defines a “mass mailing” as over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry. Regulation 18435, subdivision (a) clarifies this section, and further defines a mass mailing as over two hundred substantially similar pieces of mail sent in a calendar month. Regulation 18435, subdivision (b) defines the term “sender,” as used in section 84305, as the candidate or committee who pays for the largest portion of expenditures attributable to the designing, printing or posting of the mailing.

Section 84100 provides that every committee shall have a treasurer, and that no expenditure shall be made by or on behalf of a committee without the authorization of the treasurer or that of his or her designated agents. Further, section 84100 provides that no contribution or expenditure shall be accepted or made by or on behalf of a committee at a time when there is a vacancy in the office of treasurer. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any violation committed by the committee. (Section 91006.)

## **SUMMARY OF THE FACTS COUNTS 1-8**

Respondent CIB-PAC is a general purpose committee, which supports Republican legislative candidates, causes, and committees. At all times, Respondent Charles H. Bell, Jr., a political law attorney, was the paid treasurer of Respondent CIB-PAC.

During the March 26, 1996 primary election, Respondent CIB-PAC supported Robert Prenter as the Republican candidate for the 30<sup>th</sup> Assembly District seat. Robert Prenter, the nephew of Edward G. Atsinger III, who was one of the contributors to Respondent CIB-PAC, was unknown in political circles, and had never run for public office prior to this election.

Assemblyman Brian Setencich was the incumbent running for re-election to the 30<sup>th</sup> Assembly District seat. Assemblyman Setencich had alienated many Republicans during the 1995 power struggle over control of the State Assembly following Assembly Speaker Willie Brown’s long tenure. Assemblyman Setencich aligned himself with the Assembly Democrats on several issues, and was later named as the Speaker of the Assembly. In the March 1996 primary election, Robert Prenter defeated Brian Setencich, and went on to win the general election in the fall of 1996.<sup>2</sup>

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<sup>2</sup> Robert Prenter served one term in the State Assembly from 1996 through 1998. He unsuccessfully ran for re-election in 1998, and is no longer in public office.

Robert Prenter's controlled committee for the 1996 campaign was the "Committee to Elect Robert Prenter for the Assembly" ("CERPA"). Veronica Prenter, Robert Prenter's wife, served as CERPA's treasurer until September 1996, when Respondent Bell, the treasurer of Respondent CIB-PAC, became the treasurer. For the first pre-election reporting period from January 1, 1996 through February 2, 1996, CERPA reported receiving contributions totaling \$300 and making expenditures of \$21. However, from February 11, 1996 through and June 30, 1996, during the second pre-election and semi-annual reporting periods, CERPA received contributions totaling \$255,167 and made expenditures totaling \$99,138. Of this amount, monetary and non-monetary contributions totaling \$248,328, or nearly 97% of the total, were from Respondent CIB-PAC. The CIB-PAC monetary contributions, totaling \$86,000, were used by the Prenter campaign to purchase radio and television advertising. The \$162,328 in non-monetary contributions from Respondent CIB-PAC were for mailers, postage, political consultants, staff salaries, phone banks, polls, and related campaign expenses.

As part of their non-monetary contributions to Robert Prenter during the 1996 primary election, Respondents paid for and sent eight mass mailings which opposed Brian Setencich, two of which also supported Robert Prenter. All eight mass mailings were in the form of a high quality, four-page newsletter, which was 8½" x 11" in size. Seven of the eight mass mailings had identical sender identification, which read in the upper left-hand corner: "P.O. Box 77, Hanford, CA 93232-0077," and in the upper right-hand corner: "Bulk Rate, U.S. Postage, PAID, Citizens for the Valley."<sup>3</sup> On the back page of each of the eight mass mailings, in smaller type, was printed: "Paid for by the Committee to Elect Robert Prenter for Assembly."

The six mass mailings opposing Brian Setencich, with no mention of Robert Prenter's candidacy, were entitled: 1) Deal, 2) And Willie Brown Just Laughed, 3) Before He Stepped Down, 4) They Wanted Justice, 5) After He Carjacked Her Car, and 6) An Act of Betrayal. The two mass mailings that opposed Assemblyman Setencich, and also contained text supporting candidate Robert Prenter, were entitled: 7) Just Last Week and 8) We Proudly Support. Respondents paid over \$80,000 to vendors to produce and send these eight mass mailings.

The distribution of the eight mailers qualified as "mass mailings" under the Act, since they involved sending more than 200 substantially similar pieces of mail in a calendar month. Further, Respondent CIB-PAC qualified as the sender of the mass mailings, since it paid for the largest portion of the cost of the mailings. Accordingly, Respondent CIB-PAC should have been identified on the outside of each of the mailers, pursuant to section 84305.

By failing to include proper sender identification for Respondent CIB-PAC on the eight mass mailings as described in Counts 1 through 8, Respondents CIB-PAC and Charles H. Bell, Jr., as treasurer, violated section 84305.

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<sup>3</sup> According to Robert Prenter's campaign records, CERPA paid \$29 for "P.O. Box 77" on March 4, 1996, and obtained a bulk rate postage permit, using the name of "Citizens for the Valley," on March 5, 1996, at a cost of \$170.

## CONCLUSION

The failure to include the proper committee name and address on the eight mass mailings is a serious violation of the Act. The mass mailings were deceptive in that they stated they were paid for by Robert Prenter's committee, when, in fact, his committee did not pay the largest portion of the cost of the mailers, and only paid minimal amounts for a post office box and the bulk rate permit used for the mailings.

The eight mass mailings were misleading in that they included the name of a non-existent group, "Citizens for the Valley," in the bulk rate postage designation under the words "PAID" on the first page of each mailer. Using this name in the bulk rate postage designation could have led recipients of the mailers to believe that a local "citizens" group, that did not even exist, paid for mass mailings.

If the eight mass mailings had included proper sender identification, they would have disclosed Respondent CIB-PAC as the sender of the mailers with CIB-PAC's address as that of the law firm of its treasurer, Respondent Charles H. Bell, Jr. in Sacramento. Such sender identification would have informed voters in the 30<sup>th</sup> Assembly District that an organization outside of their community was financing the drive to unseat the incumbent Brian Setencich, and elect the unknown challenger, Robert Prenter. Moreover, the identification of CIB-PAC as the sender of the mailers would have led the public and press to Respondent CIB-PAC's campaign statements, which disclosed that the funding for this district mail campaign was being financed by a small group of contributors in Southern California, rather than a grassroots citizens committee, as suggested by the name "Citizens of the Valley."

The contributors to Respondent CIB-PAC were not involved in determining the sender identification used on the mass mailings, and relied on the committee's staff and its treasurer to handle such matters. Respondent CIB-PAC has not been the subject of a prior enforcement action.

This matter consists of eight counts of sending a mass mailing in violation of section 84305 of the Act, which carries a maximum administrative penalty of Sixteen Thousand Dollars (\$16,000).

The facts of this case, including the aggravating factors discussed above, justify imposition of the agreed upon penalty of Sixteen Thousand Dollars (\$16,000).